In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 409

WILLIAM W. TURNER, PETITIONER

v.

ROBERT F. KENNEDY, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

We respectfully invite the attention of the Court to the following facts which show that the petition was filed out of time:

On April 2, 1964, the Court of Appeals for the District of Columbia Circuit affirmed the district court's decision granting respondent's motion for summary judgment (Pet. App. 1a). A timely petition for rehearing *en banc* was denied on May 20, 1964 (Pet.

App 9a-10a). The petition for a writ of certiorari was filed 91 days thereafter, on August 19, 1964.

Section 2101(c) of Title 28 provides that "any writ of certiorari intended to bring any judgment or decree in a civil action * * * before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree." Since these limits are jurisdictional, the petition should be dismissed as untimely.

Respectfully submitted,

ARCHIBALD COX,
Solicitor General.

September 1964.

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